

# HOUSE BILL No. 1895

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2.5.

**Synopsis:** Alternative utility regulation. Provides that the Indiana utility regulatory commission, the utility consumer counselor, one or more energy utilities, or a customer class that has statutory standing may initiate alternative utility regulation for an energy utility. (Under current law only the subject energy utility may seek alternative regulation.) Provides that the commission must consider the benefits to the energy utility, the energy utility's consumers, and the state when making a decision regarding alternative regulation. Requires the commission to adopt regulatory practices, rates, and charges under alternative regulation that are in the public interest and will promote (Continued next page)

**Effective:** July 1, 1999.

**Moses**

January 26, 1999, read first time and referred to Committee on Commerce and Economic Development.



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Digest Continued

specifically stated goals. Removes provisions that permit an energy utility to reject an alternative regulation plan. Provides that the commission may not establish rates and charges for nonresidential electric service customers priced below cost that would require subsidization by residential customers. Repeals a superseded statute.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1895

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 8-1-2.5-4 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. ~~Section 5 or 6, or~~  
3       ~~both, of this chapter do not apply to an energy utility unless the energy~~  
4       ~~utility voluntarily submits a verified petition to the commission stating~~  
5       ~~the energy utility's election to become subject to such section or~~  
6       ~~sections:~~ A request for relief by an energy utility under section 5 of this  
7       chapter shall be limited to jurisdiction over the energy utility or its  
8       retail energy services, including rates, charges, or both. A request for  
9       relief by an energy utility under section 6 of this chapter shall be  
10      limited to approval of its energy services or the establishment of its  
11      rates and charges, or both.

12      SECTION 2. IC 8-1-2.5-5 IS AMENDED TO READ AS  
13      FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Notwithstanding  
14      any other law or rule adopted by the commission, except those cited, or  
15      rules adopted that pertain to those cited, in section 11 of this chapter,

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on the request of an energy utility electing to become subject to this section; the commission may **on its own motion, at the request of the utility consumer counselor, at the request of one (1) or more energy utilities, or at the request of any class satisfying the standing requirements of IC 8-1-2-54** enter an order, after notice and hearing, that the public interest requires the commission to commence an orderly process to decline to exercise, in whole or in part, its jurisdiction over either the energy utility or the retail energy service of the energy utility, or both.

(b) In determining whether the public interest will be served, the commission shall consider the following:

(1) Whether technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies render the exercise, in whole or in part, of jurisdiction by the commission unnecessary or wasteful.

(2) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will be beneficial for the energy utility, the energy utility's customers, ~~or~~ **and** the state.

(3) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will promote energy utility efficiency.

(4) Whether the exercise of commission jurisdiction inhibits an energy utility from competing with other providers of functionally similar energy services or equipment.

SECTION 3. IC 8-1-2.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) Notwithstanding any other law or rule adopted by the commission, except those cited, or rules adopted that pertain to those cited, in section 11 of this chapter, in approving retail energy services or establishing just and reasonable rates and charges, or both, for an energy utility ~~electing to become~~ subject to this section, the commission may **on its own motion, at the request of the utility consumer counselor, at the request of one (1) or more energy utilities, or at the request of any class satisfying the standing requirements of IC 8-1-2-54** do the following:

(1) Adopt alternative regulatory practices, procedures, and mechanisms, ~~and establish rates and charges that~~

(A) ~~are in the public interest, as determined by consideration of the factors described in section 5 of this chapter; and~~

(B) ~~enhance or maintain the value of the energy utility's retail energy services or property;~~

~~including practices, procedures, and mechanisms~~ focusing on the price, quality, reliability, and efficiency of the service provided by the energy utility **that are in the public interest and promote**

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one (1) or more of the following:

(A) Energy utility cost minimization to the extent that an energy utility's quality of service and facilities are not diminished.

(B) A more accurate evaluation by the commission of an energy utility's physical or financial conditions or needs and a less costly regulatory procedure for the energy utility, its customers, or the commission.

(C) Development of depreciation guidelines and procedures that recognize technological obsolescence.

(D) Increased energy utility management efficiency beneficial to consumers.

(E) Regulation consistent with a competitive environment.

(F) Increased utilization of renewable energy resources.

(2) Establish rates and charges **that are just and reasonable** based on market or average prices, price caps, index based prices, and prices that:

(A) use performance based rewards or penalties, either related to or unrelated to the energy utility's return or property; ~~and~~

(B) are designed to promote efficiency in the rendering of retail energy services; ~~and~~

(C) **share the economic benefits of improved efficiency equitably with consumers.**

(b) This section:

(1) does not give a party to a collective bargaining agreement any greater rights under the collective bargaining agreement than the party had before January 1, 1995;

(2) does not give the commission the authority to order a party to a collective bargaining agreement to cancel, terminate, amend or otherwise modify the collective bargaining agreement; and

(3) may not be implemented by the commission in a way that would give a party to a collective bargaining agreement any greater rights under the collective bargaining agreement than the party had before January 1, 1995.

(c) ~~An energy utility electing to become subject to this section shall~~

**The party requesting relief under this section must** file with the commission an alternative regulatory plan proposing how the commission will approve retail energy services or just and reasonable rates and charges for the energy utility's retail energy service.

(d) ~~The An energy utility shall requesting relief under this section~~ **must** publish a notice of the filing of a petition under this section in a newspaper of general circulation published in any county in which the



energy utility provides retail energy service.

(e) After notice and hearing, the commission may approve, reject, or modify the ~~energy utility's proposed~~ plan if the commission finds that such action is consistent with the public interest. ~~However, the commission may not order that material modifications changing the nature, scope or duration of the plan take effect without the agreement of the energy utility. The energy utility shall have twenty (20) days after the date of a commission order modifying the energy utility's proposed plan within which to, in writing, accept or reject the commission's order.~~

(f) ~~An energy utility A party requesting relief under this section may withdraw a plan proposed under this section its request~~ without prejudice before the commission's approval of the plan. ~~or the energy utility may timely reject a commission order modifying its proposed plan under this section without prejudice. However, the energy utility that party~~ may not file a petition for comparable relief under this section for a period of twelve (12) months after the date of ~~the energy utility's withdrawal of its the party's~~ proposed plan. ~~or the date of the energy utility's rejection of the commission's order, whichever is applicable.~~

SECTION 4. IC 8-1-2.5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 13. The commission may not establish rates and charges for nonresidential electric service customers priced below cost that would require subsidization by residential customers.**

SECTION 5. IC 8-1-2.5-8 IS REPEALED [EFFECTIVE JULY 1, 1999].

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